

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 12th day of September 2013, at 7:00 P.M., and there were

PRESENT: JOHN BRUSO, MEMBER
 JAMES PERRY, MEMBER
 LAWRENCE PIGNATARO, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 RICHARD QUINN, CHAIRMAN

ABSENT: JILL MONACELLI, MEMBER

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 NICHOLAS LOCICERO, DEPUTY TOWN ATTORNEY

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF: KEVIN de NIJS

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of the adjourned hearing of Kevin de Nijs, 2 Old Schoolhouse Road, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a five [5] foot high fence in a required open space area on premises owned by the petitioner at 2 Old Schoolhouse Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Old Schoolhouse Road with an exterior side yard [considered a front yard equivalent] fronting on William Street. The petitioner proposes to erect a five [5] foot high fence within the required open space area of the exterior side yard fronting on William Street.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a two [2] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

It is noted that the petitioner Kevin de Nijs was not present.

Deborah Kosmoski Baker

Proponent
As Conditioned with
49' Set Back.

IN THE MATTER OF THE PETITION OF KEVIN de NIJS

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kevin de Nijs and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of September 2013, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern, therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought with 49' set back from William Street.

That no detriment to nearby properties will be created by the granting of the area variance relief sought with 49' set back from William Street.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

That the fence be set back 49' from center line of William Street.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BRUSO	VOTED YES
MS. MONACELLI	WAS ABSENT
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

September 12, 2013

PETITION OF: GREGORY MAZIARZ

THE 2nd CASE PRESENTED TO THE ZONING Board of Appeals was that of the petition of the adjourned hearing of Gregory Maziarz, 1150 Ransom Road, Lancaster, New York 14086 for one [1] variance for the purpose of installing a split rail fence to serve as a pen or runway on premises owned by the petitioner at 1150 Ransom Road, Lancaster, New York, to wit:

A variance from Chapter 50, Zoning, Section 9B.(1)(f) of the Code of the Town of Lancaster for the purpose of installing a fence on the property lines; said fence to serve as a pen or runway for a horse riding stable and for the grazing of horses.

Chapter 50, Zoning, Section 9B.(1)(f) requires all pens, runways and manure or other odor-producing substances to be located 100 feet from any lot line. The petitioner, therefore, requests a one hundred [100] foot variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

None

Adjourned at request of petitioner.

IN THE MATTER OF THE PETITION OF GREGORY MAZIARZ

THE FOLLOWING MOTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has been requested by the petitioner to postpone this hearing until October 10, 2013.

WHEREAS, the petitioner filed a letter with the Town Clerk on September 10, 2013 requesting the aforementioned postponement;

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, agrees to grant the requested postponement.

**NOW, THEREFORE, BE IT
RESOLVED** that this hearing be adjourned until October 10, 2013 and allow further testimony and evidence to be presented.

The question of the adoption of the foregoing motion was duly put to a vote on roll call which resulted as follows:

MR BRUSO	VOTED YES
MS. MONACELLI	WAS ABSENT
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. QUINN	VOTED YES

The motion was **GRANTED**.

September 12, 2013

PETITION OF: LOUIS BECHT

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Louis Becht, 450 Pleasantview Drive, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a 2,100 square foot storage garage on premises owned by the petitioner at 450 Pleasantview Drive, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 2,100 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 1,350 square foot accessory use area variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Louis Becht, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF LOUIS BECHT

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PERRY, WHO MOVED ITS
ADOPTION, SECONDED BY MR. SCHWANN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has

reviewed the application of Louis Becht and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of September 2013, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern, therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BRUSO	VOTED	YES
MS. MONACELLI	WAS ABSENT	
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SCHWAN	VOTED	YES
MR. THILL	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

September 12, 2013

PETITION OF:RICHARD GREENAWALT

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Richard R. Greenawalt, 78 Sterling Place, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4] foot six [6] inch high fence in a required open space area on premises owned by the petitioner at 78 Sterling Place, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Sterling Place to the west with an exterior side yard [considered a front yard equivalent] fronting on Sterling Place to the south and an exterior rear yard on Juniper Boulevard to the east. The petitioner proposes to erect a four [4] foot six [6] inch high fence within the required open space area of

the exterior side yard fronting on the southerly portion of Sterling Place and the easterly portion on Juniper Boulevard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a one [1] foot, six [6] inch fence height variance along the southerly portion of Sterling Place and the easterly portion of Juniper Boulevard.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Richard Greenawalt, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF RICHARD GREENAWALT

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. THILL
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Richard Greenawalt and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of September 2013, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

Open Fence Conditions:

Balustrade Fence

1. That the variance relief granted herein is specifically granted for an open balustrade fence that allows air and light to pass between the vertical balustrades.
2. That any repair or replacement of the fence for which this variance is granted cannot diminish the open space area between the balustrades and reduce the amount of air and light that passes between the balustrades.

- 3. That no cover or obstruction shall be attached to or be interwoven into this fence to diminish the open space between the balustrades thereby reducing the air and light passing between the vertical balustrades.
- 4. That any repair or replacement of the fence for which this variance is granted not in compliance with conditions one, two, or three will require the submittal of a new application for a variance to this board for review.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BRUSO	VOTED YES
MS. MONACELLI	WAS ABSENT
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

September 12, 2013

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 7:51 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: September 12, 2013